

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File Nos. 23-SAT-P/LA-96
)	36-SAT-AMEND-98
)	24-SAT-P/LA-96
Loral CyberStar, Inc.)	37-SAT-AMEND-98
)	IBFS Nos. SAT-LOA-19951109-00185
Application for Authority to Construct,)	SAT-AMD-199971222-00216
Launch, and Operate a Ka-Band Satellite)	SAT-LOA-19951109-00186
System in the Fixed-Satellite Service)	SAT-AMD-199971222-00204
)	Call Sign S2218
		S2219

ORDER AND AUTHORIZATION

Adopted: August 2, 2001

Released: August 3, 2001

By the Chief, International Bureau:

I. INTRODUCTION

1. By this Order, we authorize Loral CyberStar, Inc. (“Loral”) to launch and operate two additional satellites as a supplement to its authorized Ka-band geostationary-satellite orbit satellite system.¹ In a companion order, issued today, we assign Loral’s additional satellites to the 147° W.L. and 15° W.L. orbital locations.² This will allow Loral to expand and improve the variety of advanced broadband communication services it can provide to businesses and consumers around the globe.

II. BACKGROUND

2. Loral is one of 12 applicants seeking authority to operate geostationary-satellite orbit (“GSO”) satellites in the second Ka-band processing round. In May 1997, the International Bureau licensed 13 applicants to launch and operate GSO satellite systems as part of the first Ka-band processing round (“First Round”).³ Its parent company, Loral Space & Communications Ltd. (“Loral Ltd.”), through its subsidiaries and limited partnership interests, was licensed to operate GSO satellites at nine orbital

¹ For purposes of this order, the terms “Ka-band” or “28 GHz band” refer to the space-to-Earth communications (downlink) in radio frequencies at 17.7-20.2 GHz and the corresponding Earth-to space communications (uplink) in frequencies at 27.5-30.0 GHz. We authorize Loral to operate in a portion of these frequency bands indicated in this order.

² *Second Round Assignment of Geostationary Satellite Orbit Locations to Fixed Satellite Service Space Stations in the Ka-Band, Order*, DA 01-1693 (Int’l Bur. rel. August 3, 2001) (“*Second Round GSO Assignment Order*”).

³ The Bureau also licensed one non-geostationary-satellite orbit (“NGSO”) Ka-Band System. See Teledesic Corporation, Application for Authority to Construct, Launch and Operate a Low Earth Orbit Satellite System in the Domestic and International Fixed Satellite Service, Order and Authorization, 12 FCC Rcd 3154 (Int’l Bur. 1997).

locations in the first Ka-band processing round (“First Round”).⁴ In October 1997, the Bureau established a second processing round (“Second Round”), inviting interested parties to file applications on or before December 22, 1997 for consideration in this round. The Second Round GSO licenses, and, in one case, reservation of orbit locations for a non-U.S. licensed satellite system, will enable new entrants to offer services competitive with those licensed in the First Round and will allow First Round licensees an opportunity to expand and improve the capabilities and service offerings of their licensed systems.

3. The applications at issue were originally filed by Loral’s predecessors in interest, Orion Network Systems, Inc. (“Orion Network”) and its wholly owned subsidiary, Orion Asia Pacific Corporation (“Orion Asia”), and Orion Atlantic L.P.⁵ Through a series of transactions, Loral is now the applicant in the second Ka-band processing round.⁶ Loral proposes to use these satellites to expand its licensed First Round Ka-band system. It seeks to offer private network services, including Internet, voice, data, and video transmission directly to domestic and international business enterprises worldwide.⁷ In its application, Loral proposed to operate a satellite at each of the following orbital positions: 139° E.L. and 15° W.L.⁸ In a separate letter, Loral subsequently requested the 95° W.L. location in lieu of the 139° E.L. orbital location.⁹

4. Loral proposes to use spectrum in the 28.35-28.60 GHz and 29.25-30.0 GHz frequency bands for uplink (Earth-to-space) communications.¹⁰ Loral proposes to use spectrum in the 18.30-18.55 GHz, 18.55-18.80, and 19.7-20.2 GHz frequency bands for downlink (space-to-Earth) communications.¹¹ Loral

⁴ See *Orion Network Systems, Inc.*, Order and Authorization, 12 FCC Rcd 23027 (Int’l Bur. 1997) (“*Orion Network License*”) and *Orion Atlantic, L.P.*, Order and Authorization, 13 FCC Rcd 1416 (Int’l Bur. 1997) (“*Orion Atlantic License*”), each modified by *Loral Space & Communications Corporation*, Order and Authorization, 16 FCC Rcd 2481 (Int’l Bur. 2001) (“*Loral Space ISL Order*”). These orbit locations are at 89° W.L., 81° W.L., 47° W.L., and 78° E.L. See *Loral Space & Communications Ltd.*, Order and Authorization, 13 FCC Rcd 1379 (Int’l Bur. 1997) (“*CyberStar License*”), modified, *CyberStar Licensee LLC*, Order and Authorization, 16 FCC Rcd 2442 (Int’l Bur. 2001) (“*CyberStar Milestone Order*”). These orbit locations are at 115° W.L., 93° W.L., and 105.5° E.L. See also *Loral CyberStar, Inc.*, Order and Authorization, DA 00-2796 (rel. December 20, 2000). These orbit locations are 67° W.L. and 126.5° E.L. orbit locations.

⁵ See Application of Orion Network Systems, Asia Pacific, Inc., File Nos. 23-SAT-P/LA-96 (filed November 9, 1995); Application of Orion Atlantic, L.P., File No. 24-SAT-P/LA-96 (filed November 9, 1995). See also Amendment of Orion Atlantic, L.P. to Application for Authority to Construct, Launch and Operate the Orion-F10 Separate International Communications Satellite System (“Orion Atlantic Amendment”), filed December 22, 1997 and Amendment of Orion Asia Pacific Corporation to Application for Authority to Construct, Launch and Operate the Orion-F5 Separate International Communications Satellite System (“Orion Asia Pacific Corporation Amendment”), filed December 22, 1997.

⁶ See *Loral Space & Communication Ltd. and Orion Network Systems, Inc., et al.*, Order and Authorization, 13 FCC Rcd 4592 (Int’l Bur. 1998) (“*Loral/Orion Merger Order*”). See Letters from Thomas S. Tycz, Chief, Satellite and Radiocommunication Division, FCC to Jennifer D. McCarthy, Counsel for Loral Orion Services, Inc. (December 22, 1999)(granting consolidation of companies into Loral Orion Services, Inc.) and Letter from Jennifer D. McCarthy, Counsel for Loral CyberStar, Inc. to Magalie Roman Salas, Secretary FCC (January 4, 2000) (confirming consummation of the transaction and notifying the Commission that Loral Orion Services, Inc. has assumed the name Loral CyberStar, Inc.).

⁷ Orion Atlantic Amendment and Orion Asia Pacific Corporation Amendment.

⁸ Orion Atlantic Amendment at p. 4; and Orion Asia Pacific Corporation Amendment at p. 1.

⁹ Letter from John P. Stern, Associate General Counsel, Telecommunications, Loral Space and Communications Ltd. to Magalie R. Salas, Secretary, FCC (August 11, 2000).

¹⁰ Orion Atlantic Amendment at Exhibit 1 and Orion Asia Pacific Corporation Amendment at Exhibit 1.

¹¹ *Id.*

also requests authority to conduct its tracking, telemetry and command functions during transfer-orbit operations in the Ku-band.¹²

5. Motorola, a Second Round Ka-band applicant, filed a petition to deny the Loral application.¹³ Motorola asserts that Loral should not be assigned any orbital locations in the Second Round because Loral has not demonstrated that it has met the Commission's financial qualification rules.

III. DISCUSSION

A. Qualifications

6. All applicants requesting authority to launch and operate satellite space stations must present information sufficient to establish their legal, technical, and financial qualifications to hold a Commission license. The rules set forth in Part 25 of the Commission's rules govern FSS applicants and licensees, including this application for GSO FSS in the Ka-band frequencies. The Commission modified the Part 25 FSS rules in 1997 to incorporate the particular technical requirements for operations in the Ka-band frequencies.¹⁴ In this and other licenses issued to Second Round FSS applicants in the Ka-band, we will generally apply all Part 25 FSS rules, specifically noting, however, where we decide not to apply existing rules.

1. Number of Orbit Locations

7. The Commission's Part 25 FSS rules include a limit on the number of orbit locations that may initially be assigned to a qualified GSO FSS applicant.¹⁵ The rules also limit the number of additional, expansion orbit locations that may be assigned to applicants with previously licensed systems using the same frequency bands.¹⁶ Generally, the Commission may grant a waiver of its rules in a particular case only if the relief requested would not undermine the policy objective of the rule in question, and would otherwise serve the public interest.¹⁷ The Commission waived the assignment limit rules in the first Ka-Band GSO FSS round because the applicants had agreed to an arrangement that accommodated all pending applications for space stations and left room for additional assignments.¹⁸ In this Second Round, we have determined that we can also accommodate all pending requests for space stations, with room for additional entry. We therefore again waive application of the Commission rule limiting GSO FSS orbit locations.¹⁹ Consequently, we will not, as some applicants request, limit the number of assignments to Second Round applicants.

¹² *Id.*

¹³ See Consolidated Petition to Deny filed by Motorola, Inc., filed May 25, 1999, Petition to Deny; and Consolidated Reply filed by Motorola Inc., filed July 2, 1999.

¹⁴ *Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, to Reallocate the 29.5-30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services*, FCC 97-378, 12 FCC Rcd 22310 (1997) (*Ka-Band FSS Rules Order*); *Memorandum Opinion and Order*, FCC 01-172 (released May 25, 2001) (order on petitions for clarification or reconsideration).

¹⁵ 47 C.F.R. § 25.140(e).

¹⁶ 47 C.F.R. § 25.140(f).

¹⁷ *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969).

¹⁸ *Ka-Band FSS Rules Order*, 12 FCC Rcd at 22320 ¶ 24.

¹⁹ For a more detailed discussion, see *Second Round GSO Assignment Order*, at ¶17.

2. Technical Qualifications

8. Applicants for FSS space station authorizations must meet the technical qualification requirements set forth in the Commission's Part 25 rules. These requirements are designed primarily to implement two-degree orbital spacing between GSO FSS satellites. The Commission's two-degree spacing policy, which was established in 1983, was designed to maximize the number of satellites in orbit by ensuring that satellites in geostationary-satellite orbit can operate without causing harmful interference to other GSO satellites located as close as two degrees.²⁰

9. In the *Ka-Band FSS Rules Order*, the Commission adopted its proposal to extend its two-degree spacing policy between in-orbit satellites to space stations in the Ka-band.²¹ We believe that it remains in the public interest to maximize the number of satellites that can be accommodated in orbit by extending the Commission's existing two-degree GSO spacing policy to Ka-band orbital assignments in the Second Round. All GSO FSS licensees in the Second Round will therefore be required to be two-degree GSO spacing compliant.

10. Loral indicates that its system design is consistent with operation in a two-degree spacing environment.²² Our review of Loral's application finds nothing to preclude operation in a two-degree spacing environment. The Second Round Ka-band applications were received subsequent to the *Ka-Band FSS Rules Order* but prior to the *18 GHz Band Report and Order*.²³ In both orders, rules affecting two-degree orbital spacing were adopted. We remind Loral of its continuing obligation to meet all Part 25 rules governing system operations, including Sections 25.202 (frequencies, frequency tolerances, and emission limitations) and Section 25.210 (technical requirements for space stations in the Fixed-Satellite service)²⁴ Further, Loral must meet the current Ka-band power flux-density ("pfd") limits of Section 25.208²⁵ which were adopted after Loral filed its application. As a condition of this authorization, Loral must meet these revised pfd limits.

3. Financial Qualifications

11. The Commission's FSS rules require that an applicant for a new fixed-satellite system possess sufficient financial resources to cover the construction, launch, and first-year operating costs of each proposed satellite.²⁶ We have waived these rules, however, in those cases where we can accommodate all pending applications. The Commission's financial qualification rules are designed to prevent under-capitalized licensees from holding valuable orbit spectrum resources to the exclusion of others while they attempt to arrange financing to construct and launch the licensed system.²⁷ Where all

²⁰ *Licensing of Space Stations in the Domestic Fixed-Satellite Service*, 54 Rad. Reg. 2d (P&F) 577, 589 (1983) ("*Two-Degree Spacing Order*").

²¹ *Ka-Band FSS Rules Order*, 12 FCC Rcd at 22320 ¶ 23.

²² Loral Application at ¶13.

²³ *Redesignation of the 17.7-19.7 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the 17.7-20.2 GHz and 27.5-30.0 GHz Frequency Bands, and the Allocation of Additional Spectrum in the 17.3-17.8 GHz and 24.75-25.25 GHz Frequency Bands for Broadcast Satellite-Service Use*, FCC 00-212, 15 FCC Rcd 13,430 (2000) ("*18 GHz Band Report and Order*").

²⁴ 47 C.F.R. §§ 25.202 and 25.210.

²⁵ 47 C.F.R. §25.208.

²⁶ 47 C.F.R. § 25.140(b)-(e).

²⁷ *See generally Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610-1626/2483.5-2500 MHz Frequency Bands, Report and Order*, 9 FCC Rcd 5936 at 5936, 5948 ¶ 26 (1994) ("*Big LEO Report and Order*").

applicants can be accommodated, however, granting a license to an under-capitalized applicant will not prevent another applicant from going forward.²⁸ In addition, there is a pro-competition public interest benefit in licensing all applicants, if possible. We waived the financial qualifications rules for the First Round applicants because all of those applicants could be accommodated in the available orbital locations and there were additional orbital locations available for future entrants.²⁹ In the accompanying *Second Round GSO Assignment Order*, we also determine that we can accommodate all pending Second Round applicants' requests for FSS space stations in the Ka-band, and still have some orbital locations available for future entrants. We therefore waive the financial qualification requirements for Second Round applicants. Consequently, it is unnecessary to rule on Loral's financial qualifications. The petition to deny filed by Motorola, Inc. raising issues regarding Loral's financial qualifications is therefore rendered moot.

B. Spectrum Assignments

1. Service Links

12. In the *28 GHz Band First Report and Order*, the Commission adopted a band segmentation plan that designated one gigahertz of spectrum in each transmission direction for GSO FSS Ka-band systems.³⁰ For uplink (Earth-to-space) transmissions, the Commission designated 250 megahertz of spectrum between 28.35 and 28.6 GHz, 250 megahertz of spectrum between 29.25 and 29.5 GHz (shared on a co-primary basis with non-geostationary satellite orbit, mobile satellite service feeder links), and 500 megahertz of spectrum between 29.5 and 30.0 GHz for GSO FSS operations. For downlink (space-to-satellite) communications, the Commission designated 1100 megahertz of spectrum between 17.7 and 18.8 GHz for GSO FSS operations (shared on a co-primary basis with terrestrial fixed-service) and 500 megahertz of spectrum between 19.7 and 20.2 GHz for primary GSO FSS operations. The Commission later refined the downlink plan for the frequency band between 17.7 and 18.8 GHz, by designating 280 megahertz of spectrum between 18.3 and 18.58 GHz for co-primary GSO FSS and terrestrial-fixed operations and 220 megahertz of spectrum between 18.58 and 18.8 GHz for primary GSO FSS operations.³¹

13. In its application, Loral proposes to use 1000 megahertz of spectrum at the 28.35-28.6 GHz and 29.25-30.0 GHz frequency bands for its service uplinks. Loral's request is consistent with the 28 GHz band plan, and we will therefore authorize Loral to operate in these frequencies, subject to the sharing rules adopted in the *28 GHz Band First Report and Order*.

14. In its application, Loral proposes to use 1000 megahertz of spectrum at the 18.30-18.55 GHz, 18.55-18.80 and 19.7-20.2 GHz frequency bands for its service downlink bands. We grant this request consistent with the *18 GHz* band plan.³² Specifically, we authorize Loral to operate its service downlinks

²⁸ *Id.*

²⁹ See *Ka-Band FSS Rules Order*, 12 FCC Rcd at 22318 ¶ 18.

³⁰ *Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, to Reallocate the 29.5-30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services, First Report and Order and Fourth Notice of proposed Rulemaking*, FCC 96-311, 11 FCC Rcd 19005 (1996) ("*28 GHz Band First Report and Order*").

³¹ See *18 GHz Band Report and Order*. Stations operating in primary services are protected against interference from stations of "secondary" services. Moreover, stations operating in a secondary service cannot claim protection from harmful interference from stations of a primary service. "Co-Primary" services have equal rights to operate in particular frequencies. See 47 C.F.R §§ 2.104(d) and 2.105(c).

³² See *28 GHz Band First Report and Order*, 11 FCC Rcd 19005, as modified in *18 GHz Band Report and Order*, 15 FCC Rcd at 13443, ¶ 28.

in 1000 megahertz of spectrum in the 18.3-18.8 GHz and 19.7-20.2 GHz frequency bands. Because the 280 megahertz of spectrum at 18.3-18.58 GHz is to be shared on a co-primary basis with terrestrial-fixed services, GSO FSS operations in this band must be coordinated with these terrestrial operations.

15. In addition, Loral must coordinate with U.S. Government systems in accordance with footnote US334 to the Table of Frequency Allocations.³³ This footnote requires coordination of commercial systems with U.S. Government GSO and NGSO FSS systems that are presently operating throughout the 17.8-20.2 GHz frequency band. These Government systems operate in accordance with the power flux-density limits contained in the current International Telecommunication Union (“ITU”) Radio Regulations.³⁴ Loral must also comply with footnote US255 to the Table of Frequency Allocations that contains power flux-density limits to protect the Earth exploration satellite service (passive) for the 18.6-18.8 GHz band.³⁵

2. Tracking, Telemetry and Command

16. Under the Commission’s rules, tracking, telemetry and command (“TT&C”) operations may be provided at the edges of the frequency bands in which the particular satellite will be providing service.³⁶ Loral proposes to conduct TT&C functions in the upper edges of the 29.9985 -30.0000 GHz band and its telemetry functions in the 18.3000-18.3003 GHz band.³⁷ We authorize Loral to conduct TT&C operations in these service bands.

17. Loral also requests authority to conduct TT&C operations outside its Ka-band service frequencies. Specifically, Loral proposes to conduct its command functions in the Ku-band. These requested operations are within the Ku-band frequencies, which are not the system’s service band. Thus, the request is not consistent with Section 25.202 of the rules.³⁸ As the Commission recently indicated, this rule serves the valid purpose of simplifying coordination among satellites at adjacent orbital locations, and promoting efficient spectrum use.³⁹ Loral has not provided a showing to demonstrate that waiver of Section 25.202(g) for TT&C operations outside its service band would be consistent with the basic purpose of the rule, or that the public interest otherwise requires a waiver. Thus, we deny Loral’s request.

³³ See 47 C.F.R. § 2.106 US334.

³⁴ See *18 GHz Report and Order*, 15 FCC Rcd at 13473 ¶ 90. The power flux-density limits in the 18.3-18.6 GHz band are -115/-105 dB (W/m²) in any one megahertz band, depending upon the angle of arrival. There are currently no power flux-density limits in the 19.7-20.2 GHz band. See Letter from William T. Hatch, National Telecommunications and Information Administration, to Dale Hatfield, Chief, Office of Engineering and Technology, Federal Communications Commission (March 29, 2000).

³⁵ 47 C.F.R. §2.106 US 255 (as revised in the *18 GHz Band Report and Order*, 15 FCC Rcd at 13489) states: In addition to any other applicable limits, the power flux-density across the 200 MHz band 18.6-18.8 GHz produced at the surface of the Earth by emissions from a space station under assumed free-space propagation conditions shall not exceed -95db(W/m2) for all angles of arrival. This limit may be exceeded by up to 3 dB for no more than 5% of the time.

³⁶ 47 C.F.R. § 25.202(g).

³⁷ Orion Atlantic Amendment at Exhibit 1 and Orion Asia Pacific Corporation Amendment at Exhibit 1.

³⁸ See *Amendment of the Commission's Rules With Regard to the 3650-3700 MHz Government Transfer Band*, FCC 00-363, 15 FCC Rcd 20488, 20538 ¶ 129 (the rule “effectively limits FSS operators to operating TT&C links in the same frequency bands as their FSS operations”).

³⁹ *Id.* at ¶¶ 129-130.

C. Regulatory Treatment

18. In the *DISCO I Order*, the Commission determined that all fixed-satellite service operators in the C-band and Ku-band could elect to operate on a common carrier or non-common carrier basis.⁴⁰ The Commission extended this treatment to satellite operators in the Ka-band in the *Ka-Band FSS Rules Order*.⁴¹ Consequently, Second Round Ka-band applicants may elect their regulatory status. Loral has elected to operate on a non-common carrier basis, and we authorize it to do so.⁴²

D. License Conditions

1. Milestones Schedule

19. As in all other satellite services, all Second Round Ka-band licensees will be required to adhere to a strict timetable for system implementation. This ensures that licensees are building their systems in a timely manner and that the orbit-spectrum resource is not being held by licensees unable or unwilling to proceed with their plans. The implementation schedules for GSO FSS systems in the Ka-band generally track the schedules imposed in other satellite services.

20. Specifically, Section 25.145(f) of the Commission's rules requires Ka-band GSO FSS licensees "[1] to begin construction of [their] first satellite within one year of grant, [2] to begin construction of the remainder within two years of grant, [3] to launch at least one satellite into each of [their] assigned orbit locations within five years of grant, and [4] to launch the remainder of [their] satellites by the date required by the International Telecommunication Union to assure international recognition and protection of those satellites."⁴³ Failure to meet any of these construction milestones will render those satellite authorizations null and void without further action by the Commission.

21. The dates by which Loral's satellites must be "brought into use" to protect the date priority of the U.S. ITU filings for its service links at these orbital locations are June and July 2005.⁴⁴ We recognize that, in this case, comparing these ITU "bringing into use" dates to our launch milestones has the incongruous result of our rules requiring Loral to launch its satellites into each of its assigned orbit locations by August 2006, *i.e.*, after the dates by which Loral is required to bring its satellite locations into use to protect the date priority of the U.S. ITU filings for its orbital locations. To address this misalignment, we require Loral to launch its satellites into each licensed orbit location and "bring into use" all of the frequency assignments it plans to operate at that orbit location by the ITU "bringing into use" date. This will protect the United States filings at these locations and thus, Loral's ability to

⁴⁰ See *In the Matter of Amendment to the Commission's Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems and DBSC Petition for Declaratory Rulemaking Regarding the Use of Transponders to Provide International DBS Service*, 11 FCC Rcd 2429, 2436 (1996) ("*DISCO I Order*").

⁴¹ *Ka-Band FSS Rules Order*, 12 FCC Rcd at 22333-22334 at ¶¶ 58-60.

⁴² Orion Atlantic Amendment at 2; and Orion Asia Pacific Corporation Amendment at p. 2.

⁴³ 47 C.F.R. § 25.145(f). See also *Ka-band FSS Rules Order*, 12 FCC Rcd at 22334-35 ¶ 61 & n.77 (1997).

⁴⁴ Specifically, the satellite at 147° W.L. must be brought into use by June 25, 2005 and the satellite at 15° W.L. must be brought into use by July 30, 2005. ITU Radio Regulations require that these satellites be brought into use no later than nine years from the date the ITU publishes the advance publication information. The ITU initially required that these locations be brought into use within six years after receipt of their advance publication information, with an option to extend that date by an additional three years upon request. Since WRC 2000, satellite networks at orbit locations whose advance publication information was received by the ITU before November 22, 1997 have been automatically granted the optional three-year extension. Because the orbit locations assigned to Loral fall in this category, their June and July 2005 bring into use date cannot be further extended.

coordinate and gain international recognition for the satellites at each of its assigned orbit locations. Moreover, we do not anticipate that meeting this milestone will be unduly difficult. Under standard industry practice, it generally takes two to three years to construct and launch a satellite.⁴⁵ Loral will have nearly four years in which to launch its satellites into their assigned locations by the ITU “bringing into use” dates, assuming it receives an extension.

2. Reporting Requirements

22. We will follow the Part 25 rules for reporting requirements for FSS systems, including an annual report describing the status of satellite construction and anticipated launch dates, and a detailed description of the use made of each transponder on each of the in-orbit satellites.⁴⁶ Loral must file this report on June 30 of each year, containing information current as of May 31 of that year.

3. International Coordination

23. In general, we will follow the applicable advance-publication, coordination, and notification procedures as set forth in the ITU Radio Regulations in coordinating Loral’s satellites with other affected administrations. We will also require that Hughes provide the Commission with the international coordination information required by our rules.⁴⁷ The orbit locations assigned today may be co-located or within two degrees of a non-U.S. licensed satellite filing having date priority in its ITU filings. Under these circumstances, U.S. licensees assigned to these locations are reminded that they take these licenses subject to the outcome of the international coordination process, and that the Commission is not responsible for the success or failure of the required international coordination.

IV. CONCLUSION

24. Upon review of Loral’s application, we find that Loral is qualified to be a Commission licensee and that, pursuant to Section 309 of the Communications Act of 1934, as amended, 47 U.S.C. § 309, grant of this application will serve the public interest, convenience, and necessity. As specified in the *Second Round GSO Assignment Order*, we have assigned Loral to the 147° W.L and 15° W.L. orbital locations.

V. ORDERING CLAUSE

25. IT IS ORDERED that Applications File Nos. 23-SAT-P/LA-96; 36-SAT-AMEND-98; 24-SAT-P/LA-96; 37-SAT-AMEND-98 ARE GRANTED IN PART, as discussed above, and Loral CyberStar, Inc. IS AUTHORIZED to launch and operate two GSO FSS satellites, to provide fixed-satellite service in the 18.3-18.8, 19.7-20.2, 28.35-28.6, and 29.25-30.0 GHz frequency bands at the 147° W.L. and 15° W.L. orbital locations.

26. IT IS FURTHER ORDERED that Loral CyberStar, Inc.’s authorization shall become NULL and VOID with no further action on the Commission’s part in the event the space station is not constructed, launched, and placed into operation in accordance with the technical parameters and terms and conditions of this authorization by the following dates:

⁴⁵ See, e.g., *In the Matter of the Application of Comsat Corp.*, 12 FCC Rcd 12059, 12075 ¶ 33 n. 68 (1997) (“It has been our experience that it takes an average of two years to construct and launch a satellite....”).

⁴⁶ See 47 C.F.R. § 25.210(1)(1)(2)(3).

⁴⁷ See 47 C.F.R. § 25.111(b).

<u>Construction Commenced</u>		<u>Launch and Operate</u>	
First satellite	August 2002	147° W.L. Orbit Location	March 9, 2003 ⁴⁸
Remaining satellites	August 2003	15° W.L. Orbit Location	July 30, 2005

27. IT IS FURTHER ORDERED that Loral CyberStar, Inc. must coordinate its Ka-band downlink operations with U.S. Government systems, including Government operations to earth stations in foreign countries, in accordance with footnote US334 to the Table of Frequency Allocations, 47 C.F.R. § 2.106, and in accordance with the *18 GHz Report and Order*, 15 FCC Rcd at 13473 at ¶ 90.

28. IT IS FURTHER ORDERED THAT Loral CyberStar, Inc. shall conduct its operations pursuant to this authorization in a manner consistent with the power flux-density requirements of 47 C.F.R. § 2.106 US255 and 47 C.F.R. § 25.208 of the Commission's Rules.

29. IT IS FURTHER ORDERED that the license term for each space station is ten years and will begin to run on the date Loral CyberStar, Inc. certifies to the Commission that the authorized satellite has been successfully placed into orbit and the operations fully conform to the terms and conditions of this authorization.

30. IT IS FURTHER ORDERED that Loral CyberStar, Inc. will prepare any necessary submissions to the International Telecommunication Union and to affected administrations for the completion of the appropriate coordination and notification obligations for these space stations in accordance with the International Telecommunication Union Radio Regulations. We also remind Loral CyberStar, Inc. that no protection from interference caused by radio stations authorized by other administrations is guaranteed unless coordination procedures are timely completed or, with respect to individual administrations, by successfully completing coordination agreements. Any radio station authorization for which coordination has not been completed may be subject to additional terms and conditions as required to effect coordination of the frequency assignments of other administrations, 47 C.F.R. § 25.111(b).

31. IT IS FURTHER ORDERED that the temporary assignment of any orbital location to Loral CyberStar, Inc. is subject to change by summary order of the Commission on 30 days notice and does not confer any permanent right to use the orbit and spectrum. Neither this authorization nor any right granted by this authorization, shall be transferred, assigned or disposed of in any manner, voluntarily or involuntarily, or by transfer of control of any corporation holding this authorization, to any person except upon application to the Commission and upon a finding by the Commission that the public interest, convenience and necessity will be served thereby.

32. IT IS FURTHER ORDERED that Loral CyberStar, Inc. is afforded 30 days from the date of the release of this Order and Authorization to decline this authorization as conditioned. Failure to respond within that period will constitute formal acceptance of the authorization as conditioned.

⁴⁸ If the International Telecommunication Union grants a two-year extension of this date, this milestone will automatically change to March 9, 2005 without further Commission action.

33. This Order is issued pursuant to Section 0.261 of the Commission's rules on delegations of authority, 47 C.F.R. § 0.261, and is effective upon release. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Commission's rules, 47 C.F.R. §§ 1.106, 1.115, may be filed within 30 days of the date of public notice of this Order (*see* 47 C.F.R. § 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

Donald Abelson
Chief, International Bureau